

2. Due to grossly inadequate security measures and mismanagement of the website, a hacker was able to steal the bitcoins. Ex. 8 at ¶¶ 11–12.

3. McCaleb then misrepresented to the Raggios that he would recover the stolen bitcoins or reimburse the Raggios for them. Jed McCaleb failed to reimburse the Raggios for their losses, despite having access to more than enough funds from the alleged thief and an offer from the alleged thief to reimburse the Raggios. Ex. 8 at ¶¶ 13–22.

4. The Raggios filed their original complaint in March 2014, pleading numerous causes of action and naming numerous Defendants, many of whom were never served. MTGOX, Inc. was served, but it never filed an answer and has never appeared in the case in any regard. Ex. 10 (proof of service). Additionally, on information and belief, MTGOX, Inc. has never engaged in any business dealings except for its Delaware corporate filing in June 2013.

5. Defendants McCaleb and his company, Code Collective, LLC, did not file an answer until June 13, 2016, moving for summary judgment shortly thereafter, with the parties engaging in discovery meanwhile. Ex. 9 (circuit-court docket). After denial of summary judgment in November 2017, they petitioned for interlocutory appeal, which was denied by the Supreme Court of Mississippi. Ex. 9.

6. The Raggios filed their amended complaint on September 18, 2018. McCaleb and Code Collective then filed another motion for summary judgment in October 2018, as well as a motion to dismiss. Ex. 9.

7. The Raggios filed their response to the motion for summary judgment on November 1, 2018, which included Chris Raggio's affidavit stating he had filed a proof of

claim in the Mt. Gox Co., Ltd. civil rehabilitation proceedings in Japan on October 16, 2018. Ex. 12 (Raggio affidavit).

8. After both their Rule 12(b)(6) and Rule 56 motions were denied on December 27, 2018, and with their deadline for expert designations fast approaching, as well as a trial setting in June 2019, Defendants on January 3, 2019, requested a copy of the proof of claim that they were told about on November 1, 2018. Ex. 11 (letter).

9. After this copy had been provided, Defendants filed their notice of removal on January 10, 2019.

The basis for remand is set out in the Raggios' memorandum of law filed this same day. The removal was untimely and thus improper. The removing Defendants did not obtain the consent of Mt. Gox, Inc., a named and served Defendant, thus violating the rule of unanimity and likewise making the removal improper. Moreover, this Court lacks subject-matter jurisdiction over the present civil action, which neither arises in, nor arises from, nor relates to the bankruptcy proceeding in question. Remand is proper and necessary.

Because removal was objectively unreasonable at the time the notice of removal was filed, and because Defendants removed the case merely as a tactic to postpone designating their experts and to evade the June 2019 trial date, the Raggios also should be awarded their reasonable attorney fees and costs incurred in seeking remand, in an amount to be determined when this Court orders remand. (The Raggios therefore ask that this Court retain jurisdiction solely over the collateral matter of attorney fees.)

In support of this Motion, the Raggios submit the following exhibits:

Ex. 1 – Original Complaint 3-5-14

- Ex. 2 – Order of Recognition in N.D. of Texas 6-19-14
- Ex. 3 – Order Modifying Recognition in N.D. of Texas 12-11-18
- Ex. 4 – Notice of Removal (exhibits omitted) 1-10-19
- Ex. 5 – Proof of Claim filed by Chris Raggio in Japanese Civil Rehabilitation 10-16-18
- Ex. 6 – Amended Scheduling Order 8-3-18
- Ex. 7 – Email agreeing to February 1 for Defendants’ expert designation
- Ex. 8 – Amended Complaint 9-18-18
- Ex. 9 –Docket of *Raggio v. MTGOX et al.* in Hinds Circuit Court
- Ex. 10 – Proof of service on MTGOX, Inc in *Raggio v. MTGOX et al.* 7-15-14
- Ex. 11 – Letter from M. Robinson requesting Proof of Claim 1-3-19
- Ex. 12 – Affidavit of Chris Raggio filed with Nov. 1, 2018 Rule 56 response

WHEREFORE, PREMISES CONSIDERED, Plaintiffs ask that this Court GRANT the Motion to Remand, REMAND this civil action to the Circuit Court of Hinds County, Mississippi, and AWARD reasonable attorney fees and costs incurred in pursuing the Motion to Remand, retaining jurisdiction over the case solely as regards that collateral matter.

Respectfully submitted, this the 11th day of February, 2019.

s/ *Andy Lowry*

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CERTIFICATE OF SERVICE

The undersigned counsel for Plaintiffs hereby certifies that on this day, he has electronically filed the foregoing with the Clerk of the Court via this Court's ECF system, providing electronic service on all counsel registered therefor, and serving via United States mail (postage prepaid) as set forth below:

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So certified, this the 11th day of February, 2019.

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